

California Code Related to Access to Sterile Needles and Syringes

Syringe Exchange Programs

California [Health and Safety \(H&S\) Code Section 11364.7\(a\)](#) establishes that no public entity, its agents, or employees shall be subject to criminal prosecution for distribution of syringes to participants in syringe exchange programs (SEPs) authorized by the public entity.

California Business and Professions (B&P) Code 4145.5(e) (added effective January 1, 2012 by [Senate Bill \(SB\) 41, Yee, Chapter 738, Statutes of 2011](#)) requires SEPs to provide their clients with one or more of three disposal options: 1) onsite disposal, 2) provision or sale of sharps containers that meet applicable state and federal standards, and/or 3) provision or sale of mail-back sharps containers.

Local Authorization of SEPs

[H&S Code Section 121349.1](#) allows local governments to authorize SEPs in consultation with the California Department of Public Health (CDPH), as recommended by the U.S. Secretary of Health and Human Services, subject to the availability of funding, as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and blood-borne hepatitis infection among injection drug users.

[H&S Code Section 121349.2](#) requires that local government and health officials, law enforcement and the public be given an opportunity to comment on SEPs in order to address and mitigate any potential negative impact of SEPs. Assembly Bill (AB) 604 (Skinner, Chapter 744, Statutes of 2011) changed the public comment requirements from annual to biennial, effective January 1, 2012.

[H&S Code Section 121349.3](#) requires the local health officer to present information about SEPs at an open meeting of the local authorizing body. The information is to include, but is not limited to, relevant statistics on blood-borne infections associated with syringe sharing and the use of public funds to support SEPs. AB 604 changed the reporting requirements from annual to biennial, effective January 1, 2012.

State Authorization of SEPs

[H&S Code Section 121349.1](#) (as amended by [AB 604 \(Skinner, Chapter 744, Statutes of 2011\)](#)), allows CDPH to authorize SEPs in locations where the conditions exist for the rapid spread of viral hepatitis, HIV or other potentially deadly diseases. The provisions of AB 604 sunset on January 1, 2019. [More information.](#)

Individual Possession of Needles and Syringes

[H&S Code Section 11364.1](#) governs the possession of drug paraphernalia. Effective January 1, 2012, [SB 41 \(Yee, Chapter 738 Statutes of 2011\)](#) amends California statute to allow individuals to possess up to 30 syringes for personal use if acquired from a physician, pharmacist, authorized SEP or any other source that is authorized by law to provide sterile syringes or hypodermic needles without a prescription.

If this provision is not reauthorized by subsequent legislation before the January 1, 2015 sunset date, then the number of syringes an individual may possess for personal use if obtained from an authorized source will revert to ten, and will apply only to syringe possession in counties and cities which have a locally-authorized [Disease Prevention Demonstration Project](#).

Individuals may also possess an unlimited number of syringes which have been containerized for safe disposal in a container that meets state and federal standards for disposal of sharps waste.

Nonprescription Sale of Syringes (NPSS) in Pharmacies

[SB 41 \(Yee, Chapter 738, Statutes of 2011\)](#) allows nonprescription sale of syringes (NPSS) by pharmacies in California. The bill eliminates the need for local government and pharmacies to opt into a program in order to sell syringes over the counter, and eliminates the need for county health departments to manage an NPSS program. The provisions of the bill sunset on January 1, 2015. [More information.](#)

The Disease Prevention Demonstration Project (DPDP) which was established by [H&S Code Section 121285](#) and [B& P Code Section 4145](#), was a pilot to evaluate the long-term desirability of allowing licensed pharmacies to sell nonprescription syringes to prevent the spread of blood-borne pathogens. Statutes related to the DPDP are inoperative until January 1, 2015. If the provisions of SB 41 are not reauthorized by subsequent legislation before the sunset date, the sections of California Code related to the DPDP will once again be in operation. [More information.](#)

Syringe Disposal

[B&P Code Section 4146](#) permits pharmacies to accept the return of needles and syringes from the public if contained in a sharps container, which is defined in [H&S Code Section 117750](#) as “a rigid puncture-resistant container that, when sealed, is leak resistant and cannot be reopened without great difficulty.”

[H&S Code Section 118286](#) prohibits individuals from discarding home-generated sharps waste in home or business recycling or waste containers.

[H&S Code Section 118286](#) also requires that home-generated sharps waste be transported only in a sharps container or other container approved by the applicable enforcement agency, which may be either the state ([CalRecycle](#) program) or a local government agency. Home-generated sharps waste may be managed at household hazardous waste facilities, at “home-generated sharps consolidation points,” at the facilities of medical waste generators, or by the use of medical waste mail-back containers approved by the state.

[B&P Code 4145.5](#) (added by SB 41) requires SEPs and pharmacies that sell or provide nonprescription syringes to also provide consumers with one or more of three disposal options: 1) onsite disposal, 2) provision of sharps containers that meet applicable state and federal standards, and/or 3) provision of mail-back sharps containers.

Disease Prevention Demonstration Project (DPDP)

[H&S Code Section 121285](#) and [B& P Code Section 4145](#) established the DPDP, a collaborative

between pharmacies and local and state health officials to evaluate the effects of allowing licensed pharmacists to sell hypodermic needles or syringes to prevent the spread of bloodborne pathogens, including HIV, hepatitis B and hepatitis C, without requiring a prescription. Statutes related to the DPDP will be inoperative until January 1, 2015. If the provisions of SB 41 are not reauthorized by subsequent legislation before the sunset date, the sections of California Code related to the DPDP will once again be in operation.

CDPH was required to convene an uncompensated evaluation panel for the DPDP, conduct an [evaluation of the project](#), and report the findings to the Governor and Legislature on or before January 15, 2010.

The DPDP requires pharmacies to register with their local health department in order to participate in the project by providing a contact name and related information. Pharmacies must also certify that they will provide written or verbal counseling at the time of selling needles and syringes on how to access drug treatment, how to access testing and treatment for HIV and hepatitis C, and how to safely dispose of sharps waste. Additionally, pharmacies must properly store needles and syringes so that they are only available to authorized personnel, provide on-site safe disposal of needles and syringes, or furnish or sell mail-back or personal sharps disposal containers that meet state and federal standards.

Participating local health departments must maintain a list of all pharmacies registered under the project and make available to pharmacies written information that can be provided at the time of selling nonprescription syringes. Counties and/or cities may participate in the program only after authorization by local government, either the county board of supervisors or the city council.

Related Legislation

AB 604 (Skinner, Chapter 744, Statutes of 2011) permits, until January 1, 2019, CDPH, Office of AIDS (OA) to authorize entities that apply to CDPH and meet certain conditions to provide hypodermic needle and syringe exchange services. This bill requires CDPH SEP authorization be made after consultation with local health officers (LHOs) and local law enforcement officials, and after a 90-day public comment period. In making the authorization determination, CDPH is required to balance the concerns of law enforcement with the public health benefits. CDPH SEP authorizations extend for two years. Before the end of the two year period, CDPH may reauthorize the SEP in consultation with the LHO and local law enforcement officials. AB 604 also changes requirements for LHOs who must report to city or county government on locally-authorized SEPs by requiring the report to be made on a biennial, rather than an annual, basis. Additionally, AB 604 specifies that SEP staff and volunteers not be subject to criminal prosecution for possession of needles and syringes acquired from an authorized SEP.

SB 41 (Yee, Chapter 738, Statutes of 2011) permits nonprescription syringe sales (NPSS) through licensed pharmacies throughout the state until January 1, 2015. It makes inoperative until January 1, 2015, provisions of California code related to the DPDP, a pilot program which allows NPSS in counties and cities which authorize it, and for which authorizing statute sunsets on December 31, 2018. This bill allows customers 18 years of age and older to purchase and possess up to 30 syringes for personal use when acquired from an authorized source. It specifies that pharmacists, physicians and SEPs are authorized sources of nonprescription syringes for disease prevention purposes. SB 41 requires pharmacies and SEPs which offer

NPSS to provide options for safe syringe disposal. The bill also requires pharmacies that offer NPSS to provide education to customers on how to safely dispose of sharps waste and how to access drug treatment, and testing and treatment for HIV and hepatitis C virus. CDPH, OA and the California Board of Pharmacy are required by the bill to post this same information on how consumers can access testing and treatment for HIV and viral hepatitis; safely dispose of sharps waste; and access drug treatment on their websites.

AB 1701 (Chesbro, Chapter 667, Statutes of 2010) extends the December 31, 2010 sunset date to the DPDP until December 31, 2018, to continue to allow NPSS in registered pharmacies. AB 1701 continues the current provisions, which: 1) permit cities and/or counties to authorize the project; and 2) require pharmacies which wish to participate to register with their local health department. This bill also extends until December 31, 2018 the provision which allows individuals to possess up to ten syringes for personal use pursuant to local authorization of a DPDP.

SB 821 (Senate Committee on Business, Professions and Economic Development - Omnibus, Chapter 307, Statutes of 2009) authorizes licensed pharmacies to accept home-generated sharps waste for disposal.

AB 110 (Laird, Chapter 707, Statutes of 2007) authorizes a public entity that receives State General Fund money from the California Department of Public Health for HIV education and prevention to use that money to support SEPs authorized by the public entity, including purchasing sterile needles and syringes.

SB 1305 (Figueroa, Chapter 64, Statutes of 2006) prohibits individuals from discarding home-generated sharps waste in home or business recycling or waste containers.

AB 547 (Berg, Chapter 692, Statutes of 2005) authorizes a city or county to establish an SEP without a declaration of a local emergency. AB 547 also: 1) exempts public entities, agents, or employees from criminal prosecution for distributing syringes at authorized SEPs; 2) requires the local health officer to present an annual report on the status of SEPs at an open meeting of the authorizing body (board of supervisors or city council); and 3) gives the public and local stakeholders an opportunity annually to provide feedback to supervisors or city council members on the impact of SEPs.

SB 1159 (Vasconcellos, Chapter 608, Statutes of 2004) creates the DPDP, a collaboration between local and state health officials, and licensed pharmacies who have registered with their local health department to sell ten or fewer syringes for personal use without a prescription. SB 1159 also authorizes a person to possess up to ten hypodermic needles or syringes if acquired through an authorized source, and exempts from prosecution any individual carrying syringes containerized for disposal. The legislation required OA to evaluate the pilot and [report](#) to the Governor and Legislature on specified measures.

SB 1362 (Figueroa, Chapter 157, Statutes of 2004) authorizes the hazardous waste element of the California Integrated Waste Management Act of 1989 to include a program for safe collection, treatment, and disposal of sharps waste generated by households.

AB 136 (Mazzoni, Chapter 762, Statutes of 1999) exempts from criminal prosecution public entities and their employees/agents distributing syringes to SEP participants, when such a program has been authorized by the local governing body.